



## COMMONS REGISTRATION ACT 1965

Reference No. 234/U/81

In the Matter of Eastbridge Common,  
Theberton, Suffolk Coastal District,  
Suffolk

DECISION

This reference relates to the question of the ownership of land known as Eastbridge Common, Theberton, Suffolk Coastal District being the land comprised in the Land Section of Register Unit No. CL 167 in the Register of Common Land ~~maintained by the Suffolk County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.~~

Following upon the public notice of this reference Theberton Parish Council said (their chairman's letter of 23 March 1979) they believed that it is appropriate for the freehold to be vested in them. No other person claimed to be the freehold owner of the land in question or to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Ipswich on 4 October 1979. At the hearing (1) Theberton Parish Council were represented by Dr R D Firth their former chairman and by Mr R White their present chairman; and (2) Suffolk County Council as registration authority were represented by Mr J W Gibbs and Mr I Rands of the County Secretary's Department.

Dr Firth who has lived in the Parish since 1972, has been a member of the Parish Council since 1975 (their chairman until 1979) in the course of his evidence produced: (1) an extract from the Theberton Inclosure Award dated 1824 (in the County Archives) made under the Leiston and Theberton Inclosure Act 1810, (53 Geo. 3. c.54); and (2) the Chronicles of Theberton (1910, printed octavo book) by H M Doughty.

Mr Gibbs produced from the County Archives the Theberton Tithe Award dated 17 March 1841, and the map therein referred to.

Doughty includes a copy of the 1824 Award map and from it Dr Firth identified the land ("the Unit Land") in this Register Unit with that allotted by the 1820 Award as follows:- "... unto the Surveyors of the Highways of Theberton and to their successors, the Surveyors of the Highways of the same Parish for the time being, All that piece of land ... in the said Map ... marked with the No. 28, containing two roods and twenty-six perches bounded ... which said piece of land is so allotted and awarded by us pursuant to the said Private Act, as and for a public Sand and Gravel-Pit, for the use and convenience of the proprietors of lands and estates within the said Parish of Theberton and their tenants for the time being respectively, for the improvement of their lands and grounds and for the formation and repairs of the said roads belonging to the said Parish ...".

In the Tithe Award Schedule the Unit Land is described as:- "(Land Owners) Theberton Parish; (Occupiers) None; (Description) Pit; (Quantity) 2 R".



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Dr Firth said (in effect):- The Unit Land is about 100 to 200 yards from the village of Eastbridge: a grass area with some bushes — a playground for children. The Unit Land is bounded on the south by and is lower than the road; it looks like a worked out gravel pit.

I am concerned with the ownership of the Unit Land in the sense in which ownership is used in the 1965 Act, that is of the legal estate in fee simple, see section 22(2). On the evidence summarised above, I conclude that such estate is now in the successor in title of "the Surveyors of the Highways" mentioned in the 1824 Award. The local authority who is now in respect of the Unit Land such successor depends on the operation of the Local Government Act 1984 and the Local Government Act 1929 and possibly other Acts having regard to the circumstances of the Unit Land which existed when these Acts took effect. Of these circumstances I have no direct evidence. Mr Gibbs said that the Suffolk County Council made no claim to the Unit Land, and I have no claim to it by the Suffolk Coastal District Council. I shall therefore assume that the relevant circumstances were (as they might have been if the pit was worked out or was useless for public highway purposes) such that the Unit Land at the relevant time became parish property (as seems to have been assumed in the 1841 Award) and is therefore now vested in the Parish Council by operation of law.

For these reasons I am satisfied that the Parish Council are the owners of the land, and I shall accordingly direct the Suffolk County Council, as registration authority, to register Theberton Parish Council as the owners of the land under section 8(2) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 2nd — day of November — 1979

*a. a. Bacon*

Commons Commissioner